IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1181 OF 2005

Shri Dagadu Bhagwan Ghule ... Appellant

V/s

The State of Maharashtra
through the Collector Solapur. ... Respondent

Ms. Nayana Thatte for the appellant.

CORAM: P.V. KAKADE, J.

DATED: 27TH SEPT., 2005

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the learned Addl. District Judge, Pandharpur dated 8.3.2005 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Sr.Divn., Pandharpur, dated 28.4.2004 dismissing the plaintiff's suit.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff filed the suit for declaration that he is the owner and possessor of property bearing C.T.S.

No. 2726 admeasuring 68.2 sq.mtrs. purchased by him and also the house property bearing C.T.S. No. 2725 admeasuring 31.2 sq.mtrs. According to the plaintiff, the suit proeprty bearing C.T.S. No. 2725 is open space and subject matter of the suit. It was originally owned by one Salim Nazir Hussain Shaikh and Jamil Nazir Hussain Shaikh and they had given it on lease to plaintiff's father Bhagwan Narayan Ghule before 50 years prior to the suit. The plaintiff's father, in his life time, was possessing suit property as a tenant and plaintiff is possessing suit property on the basis of sale deed dated 4.6.1991 and, as such, the suit came to be filed.

4. The learned Trial Judge adjudicated the dispute on merits and came to the conclusion that the plaintiff failed to prove his ownership and possession on C.T.S. No. 2725 situated at Mangalwedha and further failed to prove that the orders passed by the Enquiry Officer of City Survey Scheme and its appellate authority were illegal and, as such, the suit came to be dismissed.

The appeal was carried to the District Court at Pandharpur. The learned Addl. District Judge, after hearing both sides, concurred with the findings recorded

by the Trial Court and dismissed the appeal. Hence the present appeal.

5. At the outset it may be noted that the only ground sought to be raised by the plaintiff is that he is the owner of City Survey No. 2726 by virtue of sale deed dated 4.6.1991. However, as recorded by the lower appellate Court, said sale deed is also not proved. Moreover, the bone of contention appears to be the adjacent property of C.T.S. No. 2725. However, it is seen from the record that it is State Government property for which purpose the present appellant-plaintiff had given application to the City Survey Office and the Enquiry officer was deputed. The Enquiry officer made necessary enquiry in this regard and dismissed the claim of the plaintiff. The appellate authority of the said City Survey Office was also of the view that the plaintiff had no right over C.T.S. No. 2725 as it belongs to the State Government. The plaintiff has himself failed to establish his right, title and interest over the suit property i.e. C.T.S. No. 2725 for want of evidence. On the other hand, the claim appears to be justified by virtue of enquiry conducted by the State authority in its City Survey department.

6. Under the circumstances, there is no substantial question of law involved in this appeal and, therefore, the appeal deserves to be dismissed and stands dismissed with no order as to costs.

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